

## AMENDMENTS

1987—Pub. L. 100-26 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” in last sentence.

1980—Pub. L. 96-513 substituted “the Internal Revenue Code of 1954” for “title 26”.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title.

**§ 559. Benefits for members held as captives**

(a) In this section:

(1) The term “captive status” means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986, monetary payment in respect of such period of captivity.

(2) The term “former captive” means a person who, as a member of the uniformed services, was held in a captive status.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

(c)(1) Except as provided in paragraph (3), the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C.

5569 note), the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

(3)(A) The President—

(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii), until final disposition of such charge; and

(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

(B) For the purposes of subparagraph (A), a captivity-related offense is an offense that is—

(i) committed by a person while the person is in a captive status; and

(ii) related to the captive status of the person.

(4) A payment under this subsection is in addition to any other amount provided by law.

(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

(6) Any payment made under paragraph (1) that is later denied under paragraph (3)(A)(ii) is a claim of the United States Government for purposes of section 3711 of title 31.

(d) A determination by the President under subsection (a)(1) or (c) is final and is not subject to judicial review.

(Added Pub. L. 99-399, title VIII, §806(a)(1), Aug. 27, 1986, 100 Stat. 884; amended Pub. L. 100-26, §8(e)(11), Apr. 21, 1987, 101 Stat. 287; Pub. L. 101-510, div. A, title XIV, §1484(d)(4), (e)(2), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102-25, title VII, §702(b)(1)–(4), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title X, §1054(a)(6), (c)(2), Oct. 23, 1992, 106 Stat. 2502.)

## REFERENCES IN TEXT

Section 802 of the Victims of Terrorism Compensation Act, referred to in subsec. (c)(2), is section 802 of Pub. L. 99-399, which is set out as a note under section 5569 of Title 5, Government Organization and Employees.

## AMENDMENTS

1992—Subsec. (c)(3)(A)(i). Pub. L. 102-484, §1054(c)(2), made technical correction to directory language of Pub. L. 102-25, §702(b)(4). See 1991 Amendment note below.

Pub. L. 102-484, §1054(a)(6), made amendment identical to amendment by Pub. L. 102-25, §702(b)(4). See 1991 Amendment note below.

1991—Subsec. (c)(1). Pub. L. 102-25, §702(b)(2), struck out “of this subsection” after “paragraph (3)”.

Subsec. (c)(3)(A)(i). Pub. L. 102-25, §702(b)(4), as amended by Pub. L. 102-484, §1054(c)(2), struck out “of this subparagraph” after “clause (ii)”.

Subsec. (c)(3)(B). Pub. L. 102-25, §702(b)(3), struck out “of this paragraph” after “subparagraph (A)”.

Subsec. (c)(6). Pub. L. 102-25, §702(b)(2), struck out “of this subsection” after “paragraph (1)” and after “paragraph (3)(A)(ii)”.

Subsec. (d). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “(c)”.

1990—Subsec. (a)(1). Pub. L. 101-510, §1484(d)(4), substituted “August 27, 1986” for “the date of the enactment of the Victims of Terrorism Compensation Act”.

Subsec. (c)(2). Pub. L. 101-510, §1484(e)(2), inserted “(5 U.S.C. 5569 note)” after “Terrorism Compensation Act”.

1987—Subsec. (a). Pub. L. 100-26 substituted “In this section:” for “In this section—”, inserted “The term” at beginning of pars. (1) and (2), and substituted period for “; and” at end of par. (1).

#### EFFECTIVE DATE; PAYMENTS; INTEREST

Section 806(a)(3) of Pub. L. 99-399 provided that:

“(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

“(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

“(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act [Aug. 27, 1986], the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

“(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

“(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.”

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

#### PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

For payment for individuals in the uniformed services referred to in subsec. (c) of this section held in captive status between Nov. 4, 1979, and Jan. 21, 1981, see section 802 of Pub. L. 99-399, set out as a note under section 5569 of Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1013 of this title; title 10 sections 1095a, 2181.

### CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.	
601.	Applicability.
602.	Payments: designation of person to receive amounts due.
603.	Regulations.
604.	Determination of Secretary final.

#### AMENDMENTS

1990—Pub. L. 101-510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

#### § 601. Applicability

This chapter applies to—

- (1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and
- (2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
601 .....	37:351.	June 21, 1950, ch. 342, §1, 64 Stat. 249.

The words “on active duty (other than for training)” are substituted for the words “on the active . . . list” to conform to longstanding administrative construction, and because there is no “active list” in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the “Regular Army” and the “Regular Air Force”. The words “a retired list of that service” are substituted for the words “retired list”, since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.) The words “members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services” are omitted as covered by clause (1), since members of the reserve components are members of the uniformed services concerned. The word “transferred” is omitted as surplusage.

#### § 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

- (1) Department of the Army;
- (2) Department of the Navy;
- (3) Department of the Air Force;
- (4) Department of Health and Human Services; or
- (5) Department of Veterans Affairs.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter.

(e) This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of